

§ 100:17,50 Petition For Writ Of Certiorari
Alternate Form
Reference

ORIGINAL

22-7841

No. 22-1637 In re Bruce Buckner
(1:21-cv-03714-TLW)

Supreme Court, U.S.
FILED
NOV-22-2022
OFFICE OF THE CLERK

In The Supreme Court Of The United States

Bruce Allen Buckner,
Petitioner,
v.

United States Of America,
Respondent.

On Petition For Writ Of Certiorari
To The
United States Court Of Appeals
For The Fourth Circuit

Questions Presented

1. After reviewing the 6 written objections filed as Bills Of Exception in the 49 page Brief For Petitioner filed with the Habeas Corpus, would a jurist of reason believe the Petitioner was denied his Fourteenth Amendment due process right to a fundamentally fair criminal proceeding?

2. Does the fact, the Petitioner had to file written objections prove the trial Judge refused to allow the Petitioner to raise the constitutional violations to the jury?

3. Would a jurist of reason find the Civil Docket for this case, proves the District Court Clerk erred by failing to issue the November 15th, 2021 Termination Order and the report and recommendation for this case as required under 28 USCA § 45(c) Clerk's Duties?

4. Would a jurist of reason find it hard to believe the District Court Clerk issued the report and recommendation on November

15th, 2021 as required by 28 USCA § 45(c) Clerk's Duties, and fail to mail the report and recommendation until until November 16th, 2021 violating 28 USCA § 45 (c) Clerk's Duties ?

5. Would a jurist of reason believe the South Carolina Department of Corrections Mail Delivery log which shows the only thing I recieved from the District Court, between November 15th, 2021 and November 20th, 2021 was the report and recommendation for case number; 0:20-cv-03253-TLW / No. 22-6630 ?

6 Would a jurist of reason believe the Civil Docket For Case Number; 0:20-cv-03253-TLW / No. 22-6630 which shows the report and recommendation for that case was mailed to the Petitioner on November 16th, 2021 ?

7 Would a jurist of reason think the United States District Court, Division Of Rock Hill should have recused themself

from this case and the cases stemming from it, because they work with the Defendants on a daily basis and the City Of Rock Hill is liable for the five Rock Hill Police Officers in their official capacity?

8 Would a jurist of reason think the Police reports in the 49 page Brief For Petitioner filed with the Habeas Corpus proves the 5 Police Officers violated my Fourth Amendment right without probable cause?

9 Would a jurist of reason think the Police reports in the 49 page Brief For Petitioner filed with the Habeas Corpus proves the Police Officers conspired to obtain a search warrant, using illegally obtained probable cause from a warrantless entry search?

10 Would a jurist of reason think the Police reports proves everything in this case is the poisonous fruit from a warrantless invasion of privacy?

11. Would a jurist of reason think the letter dated October 22nd, 2020 from the York County Clerk Of Court's Office in the 49 page Brief For Petitioner proves the York County Clerk Of Court's Office denied the Petitioner's Sixth Amendment right to subpoena and cross-examine 4 State's witnesses 5 days before the Preliminary Hearing ?

12. Can anyone trust a Court record when the Clerk Of Court became a party in the Case ?

13. Would a jurist of reason think the Sixth Amendment violation cited in question 11, also denied the Petitioner's Fourteenth Amendment due process right to a fundamentally fair criminal proceeding ?

14. Would a jurist of reason think the unsigned arrest warrants from the Discovery Pack and the signed arrest warrant the Petitioner recieved the third day of trial, filed in the 49 page Brief For Petitioner proves the York County Solicitor violated Brady ?

15 Would a jurist of reason think, the District Court Clerk's error, denied the Petitioner's Fourteenth Amendment due process right to a fundamentally fair criminal proceeding?

16 Did the District Court error by failing to respond to my Motions under local Rule 83-9.3. and 83-9.4., "Duty Of The Court"?

17 Can the Fourth Circuit Court dismiss this case for failure to prosecute pursuant to local Rule 45 when the South Carolina Department Of Corrections Mail Delivery log proves I did not receive the report and recommendations for this case?

18 Did the Fourth Circuit Court error by failing to issue a Certificate Of Appealability after reviewing the undisputed evidence?

19 Did the District Court Clerk's error deny the petitioner's constitutional right to address the constitutional violations committed by their colleagues?

Petition For Writ Of Certiorari

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28 USCA § 2254 (b)(1)(B)(i) and (ii)

28 USCA § 2254 (2)(B)

Local Rule 83-9.3 and 83-9.4 Duty Of The Court

28 USCA § 45, Clerks Duties (c)

South Carolina Constitution Art. I sec. 10

United States Constitution Amend. 4

28 USCA § 455 (a)

SC ST § 16-5-10 Conspiracy against civil rights

U.S. V Mowatt, 513 F.3d 395

State V. Singley, 679 SE 2d 538

United States v Katz, 389 US 361, 88 Sct 507

State V. Robinson, 765 SE 2d 564

Hankford v. Gelston 364 F.2d 197

Wong Sun V. United States, 371 US 471, 83 Sct 407, 9 LEd 441

Payton v New York, 445 US 573, 100 Sct 1371, 63 LEd 639

The Fruit Of The Poisonous Tree Doctrine

Covey V. Assessor Of Ohio County 777 F3d 186

United States V. McCoy, 513 F.3d 405, 415

USA V. Cotton, 261 F3d 397

Hooten V. California 496 US 128

United States V. Hegg 18 F3d 240, 244

United States V. Calandra 414 US 338, 38 LEd 2d 561

Beck v. Ohio, 379 US 89, 85 S.Ct. 223

Johnson v. United States, 333 US 10, 68 S.Ct. 367

State v. Counts 413 SC 153, 776 SE 2d 59

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Kyllo v United States 533 US 27, 32, 121

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U.S. v. Neely, 564 F3d 346

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State v. Easterling, 185 SE 2d 366

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South Carolina Code Of Law 16-17-410 Conspiracy.

LCrR 57.3 Sanctions

Kentucky v. King, 563 U.S. 452, 131 S.Ct. 1849

Kyllo V United States, 533 US 27, 32, 121

S.Ct. 2038, 150 L Ed. 2d 941

McKenna V. Edgell, 617 F.3d 432

United State v. Elmore 18 F.4th. 193

Segura V. U.S., 468 U.S. 796, 104 S.Ct. 3380

South Carolina Code Of Law § 16-17-410,

Conspiracy

Pointer V. Texas, 85 S.Ct. 1065

Brady v. Maryland 83 S.Ct. 1194

United States v. Somerlock 696 F Supp. 2d.

1216.

Opinions

The Fourth Circuit Clerk by direction dismiss this case on September 20th, 2022, without issuing an opinion. The Court or the Clerk errored citing failure to prosecute pursuant to local Rule 45, without citing the rule or directive I failed to comply with. This denied my Fourteenth Amendment due process right to remedy the default within 15 days. I have not petitioned the Court to show good cause because as a pro se, I have no idea what rule or directive I may have failed to comply with.

Jurisdiction

I believe the Supreme Court has jurisdiction and a obligation to correct clear error made by the Fourth Circuit Court Of Appeals to protect my constitutional rights, and avoid unnecessary delay.

Pertinent Statutory Provisions

28 USCA § 45 Clerk's Duties (c) Notice of an Order or Judgment. "Upon the entry of an Order or Judgment, the Clerk must immediately serve a notice of entry on each party, with a copy of any opinion, and must note the date of service on the docket."

28 USCA § 455. Disqualification of justice, judge, or magistrate judge (a) "Any justice, judge, or magistrate judge of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned."

South Carolina Constitution Art. I § 10 (2019 Edition) (Searches and Seizures and Invasion of Privacy) "The right of the people to be secure in their person, home, papers and effects against unreasonable searches and seizures shall not be violated and no warrant shall be issued but upon probable cause."

United States Constitution Amendment IV (2017 Edition, "No warrant shall be

issued without showing probable cause."

Kyllo V. United States, 533 US 27, 32,
121 S.Ct 2038, 150 L.Ed. 2d. 941 (2001)

"The Supreme Court has announced the general rule that a search or seizure without probable cause is unreasonable and thus unconstitutional."

McKenna V. Edgell, 617 F.3d 432
(2010) "It is a violation of the Fourth Amendment for Police Officers acting in a law enforcement capacity to seize a person and search his home without probable cause."

United States V. Elmore, 18 F.4th. 193
"Fruit of the poisonous tree doctrine," "cansels for exclusion of evidence derived from information or items obtained in illegal search; the doctrine extends to evidence not directly obtained in an illegal search."

Segura V. U.S., 468 U.S. 796, 104 S.Ct. 3380
"Exclusionary rule reaches not only primary evidence obtained as direct result

of illegal search or seizure but also evidence later discovered and found to be derivative of illegality, or "fruit of the poisonous tree," and the rule extends as well to indirect as to the direct products of unconstitutional conduct.

South Carolina Code Of Law § 16-17-410. Conspiracy. "The common law crime known as "conspiracy" is defined as a combination between two or more persons for the purpose of accomplishing an unlawful object or lawful object by unlawful means."

Pointer v. Texas, 355 S.Ct 1065. "The Sixth Amendment's right of an accused to confront the witnesses against him is a fundamental right and is made obligatory on the States by the Fourteenth Amendment overruling West v. Louisiana." "Cross-examination has value in exposing falsehood and bringing out the truth in criminal proceeding." "To deprive an accused of the right to cross-examine witnesses against him is denial of Fourteenth Amendment guarantee of due

process of law."

Brady v. Maryland, 83 S.Ct 1194

"Suppression by prosecution of evidence favorable to an accused upon request violates due process when evidence is material either to guilt or punishment irrespective of good faith or bad faith of prosecution."

United States v. Somerlock 696 F.Supp.

2d. 1216 "A defendant challenging the veracity of statement made in an affidavit supporting a search warrant has the burden of establish, by a preponderance of the evidence both prongs of the Franks test for showing that a facially valid search warrant was invalidly obtained."

Statement Of Facts

On January 16th, 2020 five Rock Hill Police Officers illegally entered my privately rented room without any kind of warrant or probable cause. The Police used deception, artifice, tricks and misrepresentation to gain entry. I never consented to the entry search and I refused to sign a consent to search before I was arrested and placed on the bed around 11 PM while the Police conspired to use the illegally obtained probable cause to obtain a search warrant. A search warrant was obtained shortly after midnight using the illegally obtain probable cause. The Police blatantly admit to these facts in their police reports.

On October 22nd, 2020 I recieved a letter responding to my request for subpoenas from the York County Clerk Of Court's Office denying my Sixth Amendment right to subpoena and cross-examine the State's witnesses 5 day before my preliminary hearing. This denied my Fourteenth Amendment due process right to a fundamentally fair criminal proceeding.

At my trial Judge McKinnon errored ruling I had consented to the illegal entry search and threatened to declare a mistrial if I tried to raise anything about a Fourth Amendment violation, so I filed 6 written Bills Of Exception to insure my objections for Appeallate Court review. I push the issue until the Judge had the Clerk stamp the objections as a exhibit, because I dont think the Court's record can be trusted as true when the Clerk Of Court become a party in a conspiracy against civil rights.

For example, I filed written copies of my Appeal immediately after being sentencing, without the Sentencing Sheet which is required to be filed with the Appeal under South Carolina law. I had added copies of the 6 Bills Of Exception to the Appeal I filed with the South Carolina Appeallate Court. The Appeallate Court required me to refile my Appeal with the Sentencing Sheet, but the York County Clerk Of Court failed to issue and mail me a copy of the Sentening Sheet for 41 days. I recieved the Sentening Sheet 45 day after my trial.

The York County Clerk Of Court knew the laws and requirements of filing an Appeal and intentionally caused the dismissal of my Appeal.

Before I filed my Habeas Corpus and the 49 page Brief For Petitioner, Magistrate Judge Shiva Hodges had already showed bias and prejudice in favor of the Rock Hill Police Officers in the civil case. Unlike most cases I filed my civil case 7 months before my trial. I was hoping to obtain a Federal Attorney to help me with my criminal case. Judge Hodges denied my Motion For Default Judgment despite the undisputable documented evidence I filed proving Joshua Golson the Rock Hill Police Officers Attorney failed to respond to me within 21 days as required clearly on the Summons. Judge Hodges also granted the Rock Hill Police Officers a Stay to avoid the City Of Rock Hill being held liable for the 5 million dollars in my complaint.

I filed my Habeas Corpus Complaint

based on 28 USCA § 2254 (b)(1)(B)(i) and (ii) which states: "There is an absence of available State corrective process," because "circumstances exist that render such process ineffective to protect the rights of the applicant." and 28 USCA § 2254 (2)(B) which states: "the facts underlying the claim would be sufficient to establish but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offence."

I did not receive Magistrate Judge Shiva Hodges' termination order or the report and recommendation for this case and the South Carolina Department Of Corrections Mail Delivery log proves that fact. The only thing I received from the District Court between November 15th, 2021 and November 30th, 2021 was the report and recommendation for case number; 0:20-cv-03253-TLW. And the Civil Docket For Case Number; 0:20-cv-03253-TLW confirms the report and recommendation for that case was mailed to me on November 16th, 2021. The Civil

Docket also shows I filed objections to that report and recommendation.

In fact, I filed 3 letters begging the District Court for a De novo Review, with several Motions, and never recieved any kind of response from the Court, so I filed a Writ OF Mandamus requesting the Fourth Circuit Court OF Appeals demand the District Court respond to my Motions. I cited Local Rule 83-9.3. and 83-9.4. Duty OF The Court. Thank God, I started checking Westlaw every day hoping I would see my conviction had been over-turned, because the District Court Clerk failed to issue me a copy of the June 17th, 2022 order of dismissal, trying to deny my right to appeal. I recieved the order of dismissal 30 days after it was filed on July 27th, 2022. Thank God, I was watching Westlaw because I filed my appeal on June 27th, 2022 without the order of dismissal. I also filed an appeal with the order of dismissal on August 4th, 2022 to insure my right to appeal. This was the second time according to the Civil

Docket that the District Court Clerk violated 28 USCA § 45, Clerk's Duties (C) which states: "Upon the entry of an order or judgment the circuit Clerk must immediately serve notice of the entry on each party."

The Fourth Circuit Court issued an order on July 13th, 2022 remanding this case back to the District Court for the limited purpose of permitting the District Court to supplement the record with an order granting or denying a Certificate Of Appealability, after seeing the police reports I filed with the Writ Of Mandamus. The Fourth Circuit Court also mailed me the forms to proceed in Forma Pauperis and a United States Court Of Appeals For The Fourth Circuit, Informal Brief For Habeas And Section 2255 Case form.

I continued to watch Westlaw everyday, so you can imagine my surprise on September 20th, 2022 when the November 15th, 2021 Termination Order and the report and recommendation suddenly appeared on Westlaw. This was the first time I had seen or heard anything about

the November 15th, 2021 Termination Order in this case.

The Fourth Circuit Clerk mailed me a letter dated October 7th, 2022 with an order of dismissal filed September 20th 2022. The order, dismissed this case for failure to prosecute pursuant to Local Rule 45 without citing the rule or directive I failed to comply with. The letter gave me 15 days from the date the order filing date to file a Motion To Reopen, but the time for filing had expired, so I filed the United States Court Of Appeals For The Fourth Circuit, Informal Brief For Habeas And Section 2255 Case form and my Informal Brief For Certificate Of Appealability on October 26th, 2022, with the new case number No. 22-6798

Reason For Granting This Petition

With all due respect, it is the duty of the Supreme Court to protect the United States Constitution and the Bill Of Rights within it. The Court has made it clear that the Fourth Amendment was expressly created to protect citizens from Police misconduct and intrusion of privacy. The Police in this case blatantly admit to a Fourth Amendment violation and not having probable cause before the illegal entry search in their Police reports. The Police also admit to conspiring to obtain a search warrant, which is a violation of South Carolina Code Of Law § 16-17-410, Conspiracy, so the Supreme Court is obligated to grant this petition by law because everything in this case is the poisonous fruit of an illegal entry search without probable cause.

Conclusion

I respectfully request my release from the South Carolina Department Of Correction and the expungement of the conviction from my record. I also request a change of venue for the civil cases so a jury can decide how much monetary^{damage} I am owed.